

Exhibit 100



Making San Francisco Bay Better

February 7, 2003

Mr. Mark Sanders
16075 Skyline Boulevard
Woodside, California 94602

SUBJECT: BCDC Permit Application No. 2-02
Westpoint Marina

Dear Mr. Sanders:

On January 9, 2002, the San Francisco Bay Conservation and Development Commission (Commission) staff received your response to staff's letter, dated September 25, 2002, requesting additional information regarding your application to construct a new marina to be known as the "Westpoint Marina". As previously described, the marina would include a 408-slip marina, a boat maintenance area, 10,000 square feet of buildings for restaurant uses, 20,000 square feet of buildings for retail uses, an approximately 400-space parking lot, and public access at a site formerly used as a bittern pond (Pond 10) by the Cargill Salt Company. The site is located southeast of the Pacific Shores Center development, located off Seaport Boulevard, and west of Westpoint Slough, in the City of Redwood City, San Mateo County. After reviewing your January 9, 2002, response to our request for additional information, we have determined that some information is still required to file your permit application as complete, as discussed below.

1. Bay Plan Salt Pond Policies

- a. **Sale of the Property.** We have contacted Robert Douglass, Cargill's Manager for Real Property, to get further information on the sale of this parcel, as well as information on the intended use of the salt ponds located landward of Pond 10. We still require information from Cargill on how development of the portion of Pond 10 you acquired will not impact: (1) continued salt production; or (2) the opening of these ponds to the Bay. As we have stated previously, staff believes it is important to examine the potential impacts of the sale, development, and potential restoration of all the salt ponds in Redwood City, rather than just Pond 10, to understand how development of this portion of Pond 10 may affect land uses and restoration potential of the remaining Redwood City ponds.

✓ Received Feb 25th

- b. **Open Water.** As we have discussed, the Bay Plan salt pond policies note the importance of both retaining substantial open water and providing water-related recreation. Your January 9, 2003 letter provides an analysis of how specific measures could be implemented and provide more open water at the project site. Do you propose implementation of all of these measures (i.e., including the use of sheet piling for the haulout basin, reducing the riprap slopes, installation of a "Cabrillo Wall", and reducing the number of slips to 305 from 405) as part of your project application?

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In addition, you note that in the calculations for open water, you included the storm water channel located between the project site and Pacific Shores as "open water". First, we are not sure that this channel is part of the salt pond and second, it may not be included in the Commission's jurisdiction. Is there a tide gate located at the mouth of the storm channel or is the channel tidally influenced?

not in our jurisdiction
✓

2. Property Documents

- a. **State Lands Lease.** Thank you for your submittal from the State Lands Commission, which states that a lease is not required for the levee breach. The State Lands Commission does state in its letter that a lease would be required to dredge beyond the boundary line agreed to with Cargill (i.e., the levee) and thus to dredge the marina opening, it appears that approval would be required from the State Lands Commission. ✓
- b. **Easement and Engineered Drawings.** Thank you for copies of your easement with Cargill along the western boundary of your project site. You did not, however, submit any easements and associated plans that depict the connection needed to get on and off the site through the adjacent Pacific Shores development. In addition, a public access trail is required along the perimeter of the Pacific Shores site. How would the proposed project avoid impacting the public access trail required on Pacific Shores property? There may also be some limitations as to how this public access area can be used. We need to research this issue more thoroughly.
3. **Recreational (Marina) Policies.** As previously stated, staff believes it is important to further investigate the dredging requirements at the site for us to be able to evaluate the project's consistency with our marina policies. Thank you for submitting the letter dated October 8, 2002, addressed to you from Frank Berlogar of Berlogar Geotechnical Consultants, outlining the likely dredging requirements at the proposed project site. ✓

4. **Public Access.** Please refer to Box 7—Public Access Information in the BCDC Application Form (enclosed), and provide information on the public access proposed at the site. Specifically, please complete items d and e in Box 7 of the application.

As previously stated, once the project's proposed public access is further developed, it will be reviewed by the Commission's Design Review Board (DRB). The DRB advises the Commission on the appropriateness of the proposed public access. We will require that you submit the necessary plans and exhibits of the public access at a later date for both the DRB and the permitting process. For the DRB process we are likely to request elevations and sections at key areas. Staff will work with you to prepare the appropriate plans and exhibits.

5. **Site Plans.** Please submit both large scale and 11" by 17" plans that clearly show the details of the proposed project, the Commission's jurisdiction as it relates to proposed improvements, property boundaries, and the proposed public access.

6. **Government Approvals**

- a. **U.S. Fish and Wildlife Service.** You note that an informal consultation with the U.S. Fish and Wildlife Service (USFWS) has been completed. However, we understand that a formal Section 7 consultation may be required. Please update us on the status of the USFWS consultation.
- b. **SF Bay Regional Water Quality Control Board.** We will not be able to file your application as complete until the San Francisco Bay Regional Water Quality Control Board has issued a 401 Water Quality certification for the dredging portion of your project..

7. **Mitigation Measures-Environmental Document.** The certified environmental document contains 35 mitigation measures. Do you propose to include the implementation of these measures in your project submittal to the Commission?

8. **Fill Placed Outboard of the Levee and in a Salt Pond.** Thank you for clarifying the fill figures provided in the application. Do we correctly understand that approximately 294,990 cubic yards of dried, excavated material from the future marina basin would be placed over approximately 876,428 square feet of the site to create the project's upland area?

Please provide additional information on the 68,442 square feet of fill for the slips and docks. The application states that all of this fill would be floating fill. However, most marinas have some pile-supported fill at berthing entrances and at other locations. Please

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yes - he confirmed

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let us know if any pile-supported fill is proposed as part of this project.

As previously stated in our earlier letter, the riprap fill figure you have provided includes only figures for the Commission's Bay jurisdiction; no information has been provided on the dimensions of the riprap that would be placed within the Commission's shoreline band jurisdiction? Does this figure include both jurisdictions (i.e., riprap placed above and below the mean high tide line)? If so, please correct this figure so that the project does not appear to require more Bay fill than necessary.

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In addition, we will require separate fill figures for the amount of riprap and other fill placed within the marina basin. These fill figures do not require separate calculations for above and below the mean high tide line. I would be happy to review these figures with you.

9. **Construction of a "Bridge" to the Project Site.** Through phone conversations you have requested information on the possible construction of a "bridge" or connection (i.e., placement of dirt and drainage pipe into the storm channel) from the Pacific Shores site to the project site. You noted that a connection was needed to maintain the levees and do work within the borrow ditch on your property. Although we could consider working with you on obtaining an administrative permit for this work, that permit would need to include authorization to maintain the levees at the project site, as well as conduct any other activities at the site and construct the connection. You would also need to resolve any property issues that may exist between you and Pacific Shores that would be associated with the "bridge" landing and vehicular access through the Pacific Shores property. It is likely that it would take just as long to process an application to maintain the levees as to continue processing the marina application. Perhaps you should just combine the two activities for permitting?
10. **Commission Briefing.** As we have discussed, staff will prepare a report to brief the Commission on the policy issues associated with this proposed project for its March 20 meeting. The staff report will not describe the proposed project in detail, but identify the policy questions associated with the Bay Plan salt pond policies. In particular, staff will request feedback on the Commission's interpretation of Salt Pond Policy No. 3(c), which states, in part, that "Development of the ponds or marshes should provide for retaining substantial amounts of open water...." Staff will attach 11" by 17" exhibits of the proposed project with the staff report.

You will have the opportunity to speak before the commission for five to ten minutes to generally describe your proposed project and provide your opinion of the policy issue. There will also be a public hearing on the policy issues raised and members of the public will have the opportunity to speak on the policy matters raised. Please understand that the Commission's feedback on these policy matters is not binding; Commissioners will only indicate how they think they will interpret the policies, but they cannot make a commitment to such feedback or otherwise indicate whether they would approve or deny the proposed project.

Please provide the information described above to file your permit application as complete. If you have any questions or would like to meet to discuss our information needs further, please contact me at (415) 352-3618.

Sincerely,



ANDREA M. GAUT
Coastal Program Analyst

Enc.

AG/mm

cc: San Francisco Bay Regional Water Quality Control Board,
Attn: Beth Christian
U. S. Fish and Wildlife Service, Attn: David Wooten
California State Lands Commission, Attn: Diane Jones